



TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

COMMISSIONER
Anne Heiligenstein

November 5, 2010

Mr. Cal Salls
3926 Bahler
Manvel, TX 77578

Operation # 516827
Daystar Residential Inc.

REGULAR AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED #
70041160000734529337

Dear Mr. Salls:

As we discussed by telephone on November 1st and in the probation meeting held in my office on November 5, 2010, the Department of Family and Protective Services has decided to place Daystar Residential Inc., located at 4103 Bedynek, Manvel, TX 77578 on probation. The corrective action period will begin immediately and will end on November 5, 2011.

The decision to initiate the probation of your permit is based on your failure to manage your operation in compliance with the Minimum Standard Rules for a(n) Residential Treatment Center and the Texas Administrative Code.

The department may impose remedial action pursuant to the criteria found in 40 TAC Section 745.8605. The applicable factors are: (5) A single serious deficiency of minimum standards, rules or laws, including a finding of abuse or neglect or background matches; (6) Several deficiencies that create an endangering situation; (7) A repetition or pattern of deficiencies. DFPS contracted with a monitor to assess the operation and make recommendations for program improvement.

Daystar has a history of being placed on corrective action and then declining after it is lifted; and

Our monitoring combined with the DFPS-contracted monitor found the following concerns:

There is inadequate oversight of and communication between the direct-care staff and the administration;

CHILD CARE LICENSING, 1425 E. 40TH, HOUSTON, TX 77022

The administration does not have an identifiable system to monitor trends and identify weaknesses regarding the care of children;

The direct-care staff are not fully informed regarding the individual needs of each child; and

The operation needs training on compliance with certain minimum standards as well as training on Trauma-informed care and Positive Behavior support to educate their efforts to both care for the children and oversee that care.

The legal basis for this action is the following section of Human Resources Code, Chapter 42, Section 42.071 License Suspension and Probation which states:

Section 42.071. LICENSE SUSPENSION, EVALUATION, OR PROBATION

(c) If the department finds a facility or family home is in repeated noncompliance with standards that do not endanger the health and safety of children, the department may schedule the facility or family home for evaluation or probation rather than suspend or revoke the facility's license or the family home's registration. The department shall provide notice to the facility or family home of the evaluation or probation and of the items of non-compliance not later than the 10th day before the evaluation or probation begins. The department shall designate a period of not less than 30 days during which the facility or family home will remain under evaluation. During the evaluation or probation period, the facility or family home must correct the items that were in noncompliance and report the corrections to the department for approval.

(e) The department may suspend or revoke the license of a facility or the registration of a family home that does not correct items that were in noncompliance or that does not comply with required standards within the applicable evaluation or probation period.

The deficiencies cited are listed below:

Date Standard/ Rule/Law Standard/Rule/Law Description

10/01/2010 748.2455(2) Emergency Behavior Intervention-Basis for EBI is emergency situation, to administer medication, or property damage (short personal restraint only)

10/01/2010 748.3361(b)(2) Bedroom Space-A child may share a bedroom with an adult if the child is under three years old and sleeps in the bedroom of the caregiver

07/20/2010 748.1339(a) (1) Initial Service Plan-Service planning team must include at least one of the child's current caregivers

07/20/2010 748.1339(c) Initial Service Plan-Child, as appropriate, and parents must be invited to the meeting to develop the service plan

07/20/2010 748.1385(4) Service Plan Review-Must document reasons for continued placement if review shows no progress towards meeting identified needs

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07/20/2010 748.2151(a) (4) Medication Record-Must include date (day, month, year) & time each medication was administered

07/20/2010 748.2151(a) (5) Medication Record-Must include name & signature of person who administered each medication

07/20/2010 748.2151(a) (8) Medication Record-Must include accurate running count of each prescribed medication

07/20/2010 748.2951(d)Evaluation-Results of each overall annual evaluation made available to Licensing for review.

07/20/2010 748.945 Annual Training-Caregiver that administers psychotropic medication must receive annual training that includes same training requirements in 748.885

07/16/2010 748.2003(b) (5) Administration of Medication-Ensure the child has taken the medication as prescribed

07/16/2010 748.2151(a) (4) Medication Record-Must include date (day, month, year) & time each medication was administered

07/16/2010 748.2151(a) (8) Medication Record-Must include accurate running count of each prescribed medication

07/15/2010 748.507(1) Employee general responsibilities-Demonstrate competency, prudent judgment, self-control in presence of children and when performing assigned tasks

07/14/2010 748.3365(a) (3) Bedding-Must provide each child with a mattress cover or protector or mattress that is waterproof or washable

06/29/2010 748.1207(3) Placement agreement- Must include the reason for placement & anticipated length of time in care

06/29/2010 748.2855(a) (10) EBI Documentation-Must include the duration of the emergency behavior intervention

06/29/2010 748.2855(a) (6) EBI Documentation-Must include the date and time the intervention was administered

06/29/2010 748.2855(a) (7) EBI Documentation-Must include the length of time the child was restrained or secluded

06/28/2010 748.2307(9) Other Prohibited Punishments-subjecting a child to abusive or profane language

06/22/2010 748.2301(b) (1) Disciplinary Measures-must be consistent with operation policies and procedures

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06/22/2010 748.3701(e) (2)(A) Recreation responsibility-Child receiving treatment services-caregiver must ensure the child has opportunities to participate in community activity

06/15/2010 748.2003(b) (5) Administration of Medication-Ensure the child has taken the medication as prescribed

06/15/2010 748.2101(7) Medication Storage & Destruction-Remove discontinued medication immediately & destroy it in a way that ensures children do not have access to it

06/15/2010 748.2101(8) Medication Storage & Destruction-Remove medication on/before the expiration date & destroy it in a way that ensures children do not have access

06/15/2010 748.2101(9) Medication Storage & Destruction-Remove medication of discharged/deceased child immediately & destroy in way that ensures children do not have access

06/15/2010 748.2151(a) (4) Medication Record-Must include date (day, month, year) & time each medication was administered

06/15/2010 748.2151(a) (5) Medication Record-Must include name & signature of person who administered each medication

06/15/2010 748.2151(a) (8) Medication Record-Must include accurate running count of each prescribed medication

06/15/2010 748.3601(4) Swimming Pool-Pool chemicals & pumps must be inaccessible to children

06/15/2010 748.507(1) Employee general responsibilities-Demonstrate competency, prudent judgment, self-control in presence of children and when performing assigned tasks

06/10/2010 748.3301(c) Physical Site-Windows & doors must be in good repair & free of broken glass or hazards

06/10/2010 748.3603(d) Swimming-Outdoor pools must be enclosed with a 6-foot fence/wall that prevents children's access to the pool

05/27/2010 748.1101(b) (24) Children's rights-Adhere to the child's right to not receive unnecessary or excessive medication

05/27/2010 748.2507(3) EBI Orders-PRN for emergency medication reviewed by physician at least every 30 days & includes justification for continuation of PRN order

05/27/2010 748.2855(a) (3) EBI Documentation-Must include a description and assessment of the circumstances and specific behaviors that were the basis for EBI

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05/26/2010 748.1101(b) (4) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401

05/26/2010 748.231(d) General operational policies-Employees must be aware of and follow policies and procedures and have a copy at the operation for their review

05/26/2010 748.309(a) Reporting serious incident-All serious incident reports to Licensing must be made to the Child Abuse Hotline

05/26/2010 748.507(1) Employee general responsibilities-Demonstrate competency, prudent judgment, self-control in presence of children and when performing assigned tasks

02/09/2010 745.615(b) (3)(a) Required FBI background checks, Child Care Centers-Directors, Owners, Operators, or Administrators of the Operation

02/09/2010 748.1207(3) Placement agreement-Must include the reason for placement & anticipated length of time in care

02/09/2010 748.1381(2) Service Plan Review-If child receiving treatment services for ED, PDD, or PMN, review at least 90 days from date of last service plan

01/29/2010 748.2003(b) (5) Administration of Medication-Ensure the child has taken the medication as prescribed

01/29/2010 748.363(10) Personnel records-Include copy of the valid driver's license for each person who transports a child

01/29/2010 748.363(5) Personnel records-Include copy of a cleared tuberculosis screening conducted prior to the person having contact with children in care

The conditions placed on your operation during this corrective action period are based on your compliance history and the monitor's recommendations as follows:

You must post the enclosed Probation Notice in a prominent place near all public entrances of the operation.

The operation must allow, on request, staff, parents of children in care, and the public to read this letter of notification.

You must manage the operation in compliance with the standards and the law, make assignments to staff, and supervise the staff to ensure that they carry out their assigned duties.

The operation must comply with all Minimum Standard Rules for a(n) Residential Treatment Center, the Child-Care Licensing Law, and any restrictions on the license.

All staff will attend training conducted jointly by the Administrator/designee and Licensing staff in which Subchapters D (Reporting Serious Incidents), I (Admission & Service Planning), L (Medication) and N (Emergency Behavior Intervention) of the Minimum

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Standards are reviewed as well as the operation's policies and procedures in these areas. The EBI training must focus primarily on de-escalation techniques and strategies. The EBI training must also include the roles and responsibilities of caregivers, escape and evasion techniques and safe implementation of restraints. The documentation of the training, including signatures of the attendees, shall be kept at the operation available for review by Licensing upon request. This training must be conducted by 01/30/11.

All staff responsible for administering medication will attend external training provided by a licensed healthcare professional that focuses on administration, proper documentation, medication errors, and medication storage and destruction by 12/16/10. The training provided must be in accordance with minimum standards. The trainer's name and credentials, the agenda for the training, and attendance record of participants must be kept at the operation and made available for review by licensing upon request.

The operation must designate one staff for each shift to be responsible for administering medication. The designated person(s) must not be included in the child to caregiver ratio or assume any other duties while administering the medication. The names of the designated staff must be submitted to Licensing by 11/19/10.

The Administrator/designee will complete weekly random audits of medication records. The administrator/ designee will compile a weekly report indicating errors noted or indication of no errors, and action taken to correct errors, if applicable. The weekly reports must be maintained at the operation and made available for review by licensing upon request beginning 11/30/10.

The shift supervisors on duty must only be responsible for up to 5 Daystar child care homes beginning 11/30/10.

The Administrator must meet monthly with the shift supervisors to address issues or training needs identified from the daily observations, medication audits and EBI evaluation. A copy of the meeting notes must be available for review by Licensing upon request beginning 12/1/10.

The Administrator will complete a written overall operation EBI evaluation as detailed in 748.2951 on a monthly basis during the probation period. The monthly evaluation must be available for review by Licensing effective 1/3/2011.

The Administrator will conduct monthly, documented, face to face, case related conferences with the case manager from 11/19/10 to 11/15/11. The conferences will ensure all minimum standard components of the initial service plan and service plan reviews are covered and done timely. These documented conferences must be kept at the operation and made available for review by licensing upon request beginning 12/16/10.

The Administrator or administration staff (above supervisor level) must make daily unannounced random visits during awake hours to observe the physical plant, supervision of children, staff/child interactions, staff interventions and EBI implementation. A master log must be maintained at the operation that includes the date and time, observations noted, training issues identified and staff name & signature beginning 12/1/10.

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The treatment director will develop and maintain a chart for each individual child, describing the child's high risk behavior, behavior triggers, de-escalation strategies and treatment goals. This chart must be shared with caregivers and must include specific methods and actions for caregivers to support each child's individual treatment goals and as treatment plan changes by 12/15/10.

A written schedule of all planned indoor and outdoor recreational activities must be submitted to the Administrator and the Licensing Supervisor. The planned recreational activities must include a variety of individual and group activities. Any changes from the planned activity must be approved in advance in writing by the Administrator and the Licensing Supervisor. Documentation must be kept on file at the operation beginning 12/1/10.

All staff will attend external training that focuses on providing positive behavioral support for children in care and trauma informed care. The training provided must be in accordance with minimum standards. The trainer's name and credentials, the agenda for the training, and attendance record of participants must be kept at the operation and made available for review by licensing upon request by 03/15/11.

Documentation demonstrating compliance with these conditions must be kept at the operation and available for review by licensing staff. Your operation will be inspected by a licensing representative to determine if the conditions of corrective action are being met. You must allow licensing representatives into your operation during operating hours to investigate, inspect, and evaluate as stated in Section 42.044 of the Human Resources Code. These inspections will be unannounced. Deficiencies of the minimum standard rules, the law, license restrictions or failure to comply with the above conditions of corrective action during the corrective action period are basis for immediate revocation of the permit without further opportunity to correct the deficiency.

If you disagree with the Department's decision you must request an administrative review within fifteen (15) days of receipt of this letter. You may write Larry Spiars, P.O. Box 149030, Austin, TX 78714-9030, Mail Code E-550 to request the administrative review. The administrative review is an informal meeting that will serve as your opportunity to demonstrate full compliance with the law, the Department's rules, and the minimum standard rules.

Sincerely,



Peggy Aldredge
Program Manager
(713) 696-8073

Enclosure:
Probation Notice
Form 2940

NOTICE

The Texas Department of Family and Protective Services
Child Care Licensing Division has placed

Daystar Residential Inc.
4103 Bedynek
Manvel, Texas 77578

ON PROBATION

for repeated violation of minimum standard rules and/or child-care licensing law.

Information about the violations, the corrections needed, and conditions of the probation are included in the **letter of notification** from the Department. This letter is required to be posted near all public entrances and should be available to you.

Effective 11-5-2010 Until 11-5-2011

If you have any questions about the notice, please contact:

Alicia Courtney
(713)696-3623